

REMARKS

Claims 9, 14-16, 18-29 and 31-41 are pending in the present application. By this Amendment, previously presented claims 24-25, 28-29 and 31-32 have been amended; previously presented claims 1, 4-6, 8, 10-11 and 30 have been cancelled; and new claims 34-41 have been added. Applicants respectfully request reconsideration of the present claims in view of the foregoing amendments and the following remarks.

I. Formal Matters:

January 14, 2011 Telephone Interview

Applicants thank Examiner Metzmaier for discussing the present case with Applicants' representative, James D. Withers, during a January 14, 2011 telephone interview.

Objection to Abstract

The original Abstract has been amended as shown above. As noted in Applicants' January 04, 2010 Amendment and Response and Applicants' June 21, 2010 RCE Request and Amendments Under 37 CFR §1.114, the present application is a national phase application filed under 35 U.S.C. §371, so MPEP §1893.03(e) and MPEP §608.01(b) apply.

Applicants respectfully submit that the present Abstract meets the requirements of MPEP §1893.03(e) and MPEP §608.01(b). Accordingly, withdrawal of the objection to the Abstract is respectfully requested.

Claims Interpretation

Applicants note the description of claim interpretation of language used in previously presented claims 1, 4-6, 8-9 and 21-25 on pages 3-4 of the September 15, 2010 non-final Office Action; however, Applicants respectfully submit that further action on the part of Applicants is unnecessary.

Allowable Subject Matter

Applicants note with appreciation that the September 15, 2010 non-final Office Action indicates that a claim containing the features of (i) independent claim 9, (ii) claim 18, and (iii) the specific agrochemicals cited in Applicants' original specification would be allowable in

view of the art of record. For the reasons discussed during the January 14, 2010 telephone interview, Applicants respectfully submit the present claims are allowable over the art of record.

II. Prior Art Rejections:

Rejection of Previously Presented Claims 1, 4, 6 and 8 Under 35 U.S.C. §102(b) In View U.S. Patent No. 5,252,761 (Hirose)

Previously presented claims 1, 4, 6 and 8 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,252,761 issued to Hirose et al. (hereinafter, “Hirose”). This rejection is moot given that previously presented claims 1, 4, 6 and 8 have been cancelled.

Rejection of Previously Presented Claims 1, 4, 6, 8 and 28-30 Under 35 U.S.C. §102(b) In View U.S. Patent No. 3,392,040 (Kass)

Previously presented claims 1, 4, 6, 8 and 28-30 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,392,040 issued to Kass (hereinafter, “Kass”). This rejection is moot given that (i) previously presented claims 1, 4, 6, 8 and 30 have been cancelled, and (ii) the dependency of previously presented claims 28-29 has been changed from previously presented and now cancelled independent claim 1 to previously presented independent claim 9.

Rejection of Previously Presented Claims 1, 4, 6 and 30 Under 35 U.S.C. §102(b) In View U.S. Patent No. 2,865,859 (Lubowe)

Previously presented claims 1, 4, 6 and 30 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2,865,859 issued to Lubowe (hereinafter, “Lubowe”). This rejection is moot given that previously presented claims 1, 4, 6 and 30 have been cancelled.

Rejection of Previously Presented Claims 1, 4, 6, 8 and 30 Under 35 U.S.C. §102(b) In View U.S. Patent No. 5,200,550 (Shroot)

Previously presented claims 1, 4, 6, 8 and 30 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,200,550 issued to Shroot et al. (hereinafter, “Shroot”). This rejection is moot given that previously presented claims 1, 4, 6, 8 and 30 have been cancelled.

Rejection of Previously Presented Claim 5 Under 35 U.S.C. §103(a) In View Of Hirose and Further In View of “Polydimethylsiloxane (PDMS)-Based Antifoams” (Bergeron)

Previously presented claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable in view of Hirose and further in view of the article entitled “Polydimethylsiloxane (PDMS)-Based Antifoams” by Bergeron et al., *Colloids and Surfaces A: Physicochemical and Engineering Aspects*, vol. 122 (1997) pp. 103-120 (hereinafter, “Bergeron”). This rejection is moot given that previously presented claim 5 has been cancelled.

Rejection of Previously Presented Claims 1, 4, 6, 8-11, 14, 16 and 18-30 Under 35 U.S.C. §103(a) In View Of Lubowe and Further In View of Kass and Hirose

Previously presented claims 1, 4, 6, 8-11, 14, 16 and 18-30 were rejected under 35 U.S.C. §103(a) as being unpatentable in view of Lubowe and further in view of Kass and Hirose. This rejection is moot with regard to previously presented claims 1, 4, 6, 8, 10-11 and 30 given that these claims have been cancelled. This rejection is respectfully traversed with regard to previously presented claims 9, 14, 16 and 18-29.

The teaching of Lubowe is directed to the solubilizing of mineral, vegetable and animal oils for cosmetic, pharmaceutical and industrial purposes in low molecular weight alcohols such as ethyl, isopropyl and methyl alcohols. See, Lubowe, column 1, lines 15-18. The teaching of Lubowe discloses numerous oil-containing formulations including, but not limited to, an insecticide solution (e.g., Example XI), a sunscreen composition (e.g., Example VIII), cosmetic compositions (e.g., Examples V-VII), and hair sprays/lacquers (e.g., Examples X and XV). The only silicone oil-containing compositions disclosed in the teaching of Lubowe comprise hair spray and hair lacquer compositions such as in Examples X and XV. The only specific example of a formulation containing an insecticide in the teaching of Lubowe is Example XI, wherein the insecticide is combined with a mineral oil, not as silicone oil. The teaching of Lubowe further discloses that Examples I to IV may be used in insecticide compositions, these specific examples comprise a petroleum oil, a cottonseed oil, a sesame oil, or Neat's foot oil, not as silicone oil.

The September 15, 2010 non-final Office Action suggests that one skilled in the art, given the teaching of Lubowe, would have been motivated to (1) seek out the teachings of

Kass and Hirose, (2) select an insecticide from the teaching of Lubowe (e.g., from Example XI), (3) select an ester solvent/silicone oil system from one of the teachings of Lubowe, Kass or Hirose, and (4) formulate an aqueous composition by combining (i) the insecticide from the teaching of Lubowe and (ii) the ester solvent/silicone oil system from the teaching of Lubowe, Kass or Hirose with (iii) water disclosed in the teaching of Kass, recognizing that the incorporated ester solvent/silicone oil system from the teaching of Lubowe, Kass or Hirose would provide antifoaming properties in the resulting aqueous composition. Applicants disagree.

Applicants respectfully submit that none of the teachings of Lubowe, Kass and Hirose, taken alone or in combination with the general state of the art, suggests to one skilled in the art the need to utilize an antifoaming agent in any of the disclosed silicone-containing compositions of Lubowe, Kass and Hirose. It is difficult for Applicants to understand why one skilled in the art would have been concerned with (1) the antifoam properties of the non-aqueous compositions disclosed in the teaching of Lubowe, (2) the antifoam properties of a cosmetic composition or a water-resistant coating disclosed in the teaching of Kass, or (3) the antifoam properties of a skin emollient, lip stick or nail cosmetic disclosed in the teaching of Hirose. Applicants respectfully submit that one skilled in the art, given any or all of the teachings of Lubowe, Kass or Hirose, would not have been motivated to incorporate an antifoaming agent into any of the compositions disclosed in the teachings of Lubowe, Kass or Hirose.

Further, Applicants respectfully submit that the proposed combination of the teachings of Lubowe, Kass and Hirose alone, or in combination with the general state of the art, fails to suggest to one skilled in the art to combine Applicants' components and amounts of each component as recited in each of Applicants' independent claims 9, 21 and 23. Although each of the teachings of Lubowe, Kass and Hirose relate to various cosmetic compositions, the combined teaching of Lubowe, Kass and Hirose, even if proper, fails to suggest Applicants' claimed compositions to one skilled in the art.

Regarding Applicants' independent claims 9, 21 and 23, there simply is no suggestion in the combined teaching of Lubowe, Kass and Hirose, even if proper, that would have motivated one skilled in the art to incorporate an insecticide into an aqueous composition containing (i) one or more foam-inducing surfactants, (ii) a water-insoluble liquid silicone-containing antifoam agent, and (iii) an organic solvent comprising at least one member selected

from alkyl esters, aralkyl esters and aryl esters of organic acids, wherein the water-insoluble liquid silicone-containing antifoam agent is present in the organic solvent at a concentration of at least 10% by weight.

For similar reasons as provided above, the proposed combination of the teachings of Lubowe, Kass and Hirose fails to make obvious Applicants' method claims as recited in independent claims 24 and 25. As discussed above, none of the teachings of Lubowe, Kass and Hirose are concerned with (1) methods of reducing foaming in an aqueous agrochemical composition comprising at least one agrochemical or (2) methods of reducing or eliminating separation of a water-insoluble liquid silicone-containing antifoam in an aqueous agrochemical composition comprising at least one agrochemical. As discussed above, the teaching of Lubowe is the only teaching of Lubowe, Kass and Hirose that even mentions an agrochemical; however, as discussed above, the teaching of Lubowe is directed to non-aqueous compositions, not aqueous agrochemical compositions.

For at least the reasons given above, the proposed combination of the teaching of Lubowe with the teachings of Kass and Hirose fails to make obvious Applicants' claimed invention as recited in each of independent claims 9, 21, 23, 24 and 25. Since claims 14, 16, 18-20, 22 and 26-29 depend from independent claims 9, 21 and 25, and recite additional claim features, the proposed combination of the teaching of Lubowe with the teachings of Kass and Hirose also fails to make obvious Applicants' claimed invention as recited in each of dependent claims 14, 16, 18-20, 22 and 26-29. Accordingly, withdrawal of this rejection is respectfully requested.

Rejection of Previously Presented Claims 1, 4-6, 8-11, 14-16 and 18-33 Under 35 U.S.C. §103(a) In View Of Lubowe and Further In View of Kass, Hirose, U.S. Patent No. 6,087,403 (Bertho) and U.S. Patent No. 4,338,217 (Pirson)

Previously presented claims 1, 4-6, 8-11, 14-16 and 18-33 were rejected under 35 U.S.C. §103(a) as being unpatentable in view of Lubowe and further in view of Kass, Hirose U.S. Patent No. 6,087,403 issued to Bertho et al. (hereinafter, "Bertho") and U.S. Patent No. 4,338,217 issued to Pirson et al. (hereinafter, "Pirson"). This rejection is moot with regard to previously presented claims 1, 4, 6, 8, 10-11 and 30 given that these claims have been cancelled. This rejection is respectfully traversed with regard to previously presented claims 9, 14-16, 18-29

and 31-33.

For reasons similar to those provided above with regard to the proposed combination of the teachings of Lubowe, Kass and Hirose, the proposed combination of the teachings of Lubowe, Kass, Hirose, Bertho and Pirson fails to make obvious Applicants' claimed invention as recited in claims 9, 14-16, 18-29 and 31-33. The additional teachings of Bertho and Pirson fail to cure the above-noted deficiencies in the proposed combination of the teachings of Lubowe, Kass and Hirose.

The teaching of Bertho is directed to emulsifying compositions based on polyglycosides and fatty alcohols. The emulsifying compositions may be used to form emulsions comprising an aqueous phase and an oily phase containing as much as 60 wt% of an oil, such as silicone oil. See, for example, column 6, line 31 to column 7, line 17 in the teaching of Bertho. Bertho further teaches that the emulsifying compositions may further comprise one or more cosmetic adjuvants such as cellulosic thickeners.

The teaching of Pirson is directed to antifoam compositions comprising (i) an organopolysiloxane having a specific chemical structure, and (ii) a solid dispersed in the organopolysiloxane.

The September 15, 2010 non-final Office Action appears to suggest that one skilled in the art, given the teaching of Lubowe, would have been motivated to (1) seek out the teachings of Kass, Hirose, Bertho and Pirson, (2) select an insecticide from the teaching of Lubowe (e.g., from Example XI), (3) select an ester solvent/silicone oil system from one of the teachings of Lubowe, Kass or Hirose, (4) select an alkylpolyglycoside and a cellulosic thickener from the teaching of Bertho, (5) select an alkylalkoxyethersilicone antifoam and hydrophobic silica from the teaching of Pirson, and (6) formulate an aqueous composition by combining (i) the insecticide from the teaching of Lubowe, (ii) the ester solvent/silicone oil system from the teaching of Lubowe, Kass or Hirose, (iii) the alkylpolyglycoside and the cellulosic thickener from the teaching of Bertho, and (iv) the alkylalkoxyethersilicone antifoam and hydrophobic silica from the teaching of Pirson with (v) water disclosed in the teaching of Kass, recognizing that the incorporated ester solvent/silicone oil system from the teaching of Lubowe, Kass or Hirose would provide antifoaming properties in the resulting aqueous concentrate. Applicants disagree.

As discussed above, none of the teachings of Lubowe, Kass and Hirose, taken

alone or in combination with the general state of the art, suggests to one skilled in the art the need to utilize an antifoaming agent in any of the disclosed silicone-containing compositions of Lubowe, Kass and Hirose.

Further, Applicants respectfully submit that the proposed combination of the teachings of Lubowe, Kass, Hirose, Bertho and Pirson alone, or in combination with the general state of the art, fails to suggest to one skilled in the art to combine Applicants' components and amounts of each component as recited in each of Applicants' independent claims 9, 21 or 23. Although each of the teachings of Lubowe, Kass, Hirose and Bertho relate to various cosmetic compositions, the combined teaching of Lubowe, Kass, Hirose, Bertho and Pirson, even if proper, fails to suggest Applicants' claimed compositions to one skilled in the art.

Regarding Applicants' independent claims 9, 21 and 23, there simply is no suggestion in the combined teaching of Lubowe, Kass, Hirose, Bertho and Pirson, even if proper, that would have motivated one skilled in the art to incorporate an insecticide into an aqueous concentrate or composition containing (i) one or more foam-inducing surfactants, (ii) a water-insoluble liquid silicone-containing antifoam agent, and (iii) an organic solvent comprising at least one member selected from alkyl esters, aralkyl esters and aryl esters of organic acids, wherein the water-insoluble liquid silicone-containing antifoam agent is present in the organic solvent at a concentration of at least 10% by weight.

Similarly, the proposed combination of the teachings of Lubowe, Kass, Hirose, Bertho and Pirson fails to make obvious Applicants' method claims as recited in independent claims 24 and 25. As discussed above, none of the teachings of Lubowe, Kass and Hirose are concerned with methods of reducing foaming in an aqueous agrochemical composition comprising at least one agrochemical or methods of reducing or eliminating separation of a water-insoluble liquid silicone-containing antifoam in an aqueous agrochemical composition comprising at least one agrochemical. Consequently, it is difficult for Applicants to understand why one skilled in the art would have been motivated to seek out and combine, for example, the teachings of Lubowe, Kass and Hirose with Pirson as proposed in the September 15, 2010 non-final Office Action.

For at least the reasons given above, the proposed combination of the teaching of Lubowe with the teachings of Kass, Hirose, Bertho and Pirson fails to make obvious Applicants'

claimed invention as recited in each of independent claims 9, 21, 23, 24 and 25. Since claims 14-16, 18-20, 22, 26-29 and 31-33 depend from independent claims 9, 21 and 25, and recite additional claim features, the proposed combination of the teaching of Lubowe with the teachings of Kass, Hirose, Bertho and Pirson also fails to make obvious Applicants' claimed invention as recited in each of dependent claims 14-16, 18-20, 22, 26-29 and 31-33. Accordingly, withdrawal of this rejection is respectfully requested.

III. New Claims 34-41:

New claims 34-41 are directed to various embodiments of Applicants' claimed methods. Support for new claims 34-41 may be found throughout Applicants' original specification including, but not limited to, the following locations: page 4, lines 21-24 (claims 34-35); page 5, lines 16-17 (claim 36); page 6, lines 17-19 (claim 37); page 4, lines 21-24, and page 9, lines 15-17 (claims 38-39); page 3, lines 4-18, page 4, lines 21-24, page 9, lines 15-17, and original claim 9 (claim 40); and page 9, lines 20-23, and original claim 14 (claim 41).

For reasons similar to those given above, Applicants respectfully submit that new claims 34-41 are allowable over the art of record.

IV. Conclusion:

For at least the reasons given above, Applicants submit that claims 9, 14-16, 18-29 and 31-41 define patentable subject matter. Accordingly, Applicants respectfully request allowance of these claims.

Should Examiner Metzmaier believe that further action is necessary to place the application in better condition for allowance, Examiner Metzmaier is respectfully requested to contact Applicants' representative at the telephone number listed below.

Amendment and Response
Serial No. 10/553,914

No additional fees are believed due; however, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 503025.

Respectfully submitted,
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